

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

JK

November 8, 2006

TO: Internal File

THRU: Priscilla W. Burton, Environmental Scientist/Soils, Team Lead *PWB by an*

FROM: James D. Smith, Environmental Scientist/Hydrology *JS 11/15/06*

RE: Post Mining Land Use Change, PacifiCorp, Des-Bee-Dove Mines, C/015/0017,
Task ID #2606

SUMMARY:

The Division received this proposed amendment August 18, 2007. The proposed amendment changes the Post Mining Land Use (PMLU) from grazing and wildlife to grazing, wildlife, recreation, and mineral development: as written, this change would apply to the entire permit area. The vegetation requirements for the current grazing and wildlife use cannot be met until the end of an Extended Responsibility Period of at least 10 years, as required under R645-357. The change to mineral development (industrial) will allow a less stringent vegetative ground cover standard to be considered for bond release.

"Mineral development" is not a PMLU class explicitly considered in the R645 Coal Mining Rules. However, this use falls under "INDUSTRIAL/COMMERCIAL - Land used for (a) extraction ... of materials..." (R645-100-200. Definitions)

Grading, recontouring, and seeding at the Des Bee Dove Pumphouse Area (pumphouse and pumphouse road) were completed in the fall of 2000. The Pumphouse Area reclamation plan is in Appendix IV (Volume 5). The reclamation plan for what the Permittee calls Phase 1, which includes the Little Dove and the Beehive Mine pads, the substation and water storage area, and the access road down to the Deseret pad, is located in Appendix XIV of the MRP. Phase 1 grading, recontouring, and seeding were completed May 2001. The Phase 2 (Deseret Mine pad, bathhouse pad, tippie yard, and the Des Bee Dove Mines road) reclamation plan is in Appendix XV. The Permittee completed Phase 2 grading, recontouring, and seeding in June 2003. The Phase 3 Reclamation Plan, covering the sedimentation pond and pond access road, is in Appendix XVI.

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The Permittee completed Phase 3 grading, recontouring, and seeding in 2006. Reclamation of the sedimentation pond in Phase 3 completed the first step (Phase I) of reclamation for the entire permit area, although in April 2006 the Permittee requested Phase I bond release for only the Phase 1, Phase 2, and Pumphouse Area reclamation. Approval was recommended by the Division staff but has not been approved at the federal level.

XTO has approval from the BLM's Mineral Management Service and the Oil and Gas section of the Division to bore a coal-bed methane well (Utah Federal 17-7-25-14) in N/2 SW/4 SW/4, Sec. 25, T. 17 S., R. 7 E., SLBM. The pad location, as it has been staked, was selected with input from the USFS and BLM and straddles the lower end of the Permittee's reclaimed access road: the Permittee would have preferred having the pad outside their reclaimed area. There is also a short access road to be built, from the end of the county road to the pad, that will basically reopen a short section of the reclaimed Des Bee Dove Mines road. Total disturbance for the pad and road is projected at 0.9 acre: the adjacent reclaimed area is 1.62 acres, for a total of 2.52 acres reclaimed.

The proposed XTO drill pad and pad access road are on federal land managed by the USFS. A USFS Special Use Permit provided the right-of-entry for the Permittee to build the pumphouse, pumphouse access road, and Des Bee Dove Mines road. The sedimentation pond and pond access road are on state and BLM right-of-ways.

In order for XTO to construct a drill pad for this well, the Permittee must be released from their reclamation bond and obligation to reclaim the site to pre-mining conditions. The Permittee is submitting a change for the entire permit area because:

- Oil and gas leases cover the entire permit area and the Permittee feels future drilling is likely; and
- OHV user groups are promoting, with support from the USFS and Emery County government, improvement of the cattle trail (or even reopening the reclaimed Des Bee Dove Mines road) so that it could be used by OHVs.

Concurrent with the application for PMLU change for the entire permit area, the Permittee is applying for Phase III bond release on 2.52 acres (Task # 2625), which includes the proposed XTO drill pad and access road plus the remainder of the area the Permittee has reclaimed in the N/2 SW/4 SW/4 (20 acres) of Sec. 25 that surrounds the pad site. The Permittee feels that - in addition to the possibility construction of the pad will infringe outside the projected 0.90-acre footprint of the drill pad and road - dust, trash, equipment, and vehicles from XTO's operations may also impact the Permittee's adjacent reclaimed lands. The Permittee is concerned such impacts would result in NOV's, require additional remediation, and delay or prevent timely bond release.

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Even though the USFS currently prohibits motorized vehicles on the cattle trail, tire tracks and other evidence indicate OHVs and trucks are using at least the lower section of the trail. The Permittee feels there is a high probability that, once the drill pad is built, OHV drivers will skirt the drill pad by driving onto adjacent reclaimed areas.

TECHNICAL ANALYSIS:

RECLAMATION PLAN

GENERAL REQUIREMENTS

Regulatory Reference: PL 95-87 Sec. 515 and 516; 30 CFR Sec. 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.22, 784.23, 784.24, 784.25, 784.26; R645-301-231, -301-233, -301-322, -301-323, -301-331, -301-333, -301-341, -301-342, -301-411, -301-412, -301-422, -301-512, -301-513, -301-521, -301-522, -301-525, -301-526, -301-527, -301-528, -301-529, -301-531, -301-533, -301-534, -301-536, -301-537, -301-542, -301-623, -301-624, -301-625, -301-626, -301-631, -301-632, -301-731, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-732, -301-733, -301-746, -301-764, -301-830.

Analysis:

The proposed amendment involve changes to the narrative in LAND USE INFORMATION (R614-301-410) in Volume 1, Part 2 (pp. 2-220 through 2-222) and RECLAMATION PLAN: POSTMINING USES (R645-301-412.100) in Volume 2, Part 4 (pp. 4-42 through 4-44). The proposed PMLU change applies to the entire permit area.

The submittal also contains an aerial photo-map, a legal description of the permit area, copies of the state and federal APDs, a copy of the state's approval of the APD, and letters and other information from Emery County and agencies that manage surface and mineral interests in and adjacent to the permit area. (A copy of the BLM's approval of the APD is not included.) It is not clear, from the C1/C2 forms or other information in the submittal, if the additional information is to be placed in the MRP.

In a letter dated August 4, 2006, the USFS states that this PMLU change is consistent with the current Forest Plan (the letter does not definitively state that the USFS consents to or approves the PMLU change). SITLA states in a letter dated August 7, 2006 that they have no concerns regarding this PMLU change. Emery County has given consent to the change (letter dated July 18, 2006).

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Findings:

The Permittee has not met the requirements of this section of the R645 Coal Mining Rules. Before approval, the Permittee must provide the following, in accordance with:

R645-301-120.200, The submittal contains an aerial photo-map, a legal description of the permit area, copies of the state and federal APDs, a copy of the state's approval of the APD, and letters and other information from Emery County and agencies that manage surface and mineral interests in and adjacent to the permit area. (A copy of the BLM's approval of the APD is not included). The Permittee must clarify if this information is to be placed in the MRP.

POSTMINING LAND USES

Regulatory Reference: 30 CFR Sec. 784.15, 784.200, 785.16, 817.133; R645-301-412, -301-413, -301-414, -302-270, -302-271, -302-272, -302-273, -302-274, -302-275.

Analysis:

Post Mining Land Uses are discussed in RECLAMATION PLAN: POSTMINING USES R645-301-412.100 in Volume 2, Part 4. The current text in this section discusses PMLU as they would have been under the old reclamation plan, i.e., the plan as it was before being updated by Appendices IV, XIV, XV, and XVI and this proposed PMLU change occasioned by the XTO site. The proposed amendment removes outdated references to features no longer included in the reclamation plan, and lists PMLU as grazing, wildlife habitat, recreation, and mineral development (including oil and gas development).

The proposed change indicates that the entire permit area is to be reclassified.

Findings:

The Permittee has met the requirements of this Post Mining Land Uses section of the Coal Mining Rules.

HYDROLOGIC INFORMATION

Regulatory Reference: 30 CFR Sec. 784.14, 784.29, 817.41, 817.42, 817.43, 817.45, 817.49, 817.56, 817.57; R645-301-512, -301-513, -301-514, -301-515, -301-532, -301-533, -301-542, -301-723, -301-724, -301-725, -301-726, -301-728, -301-729, -301-731, -301-733, -301-742, -301-743, -301-750, -301-751, -301-760, -301-761.

Analysis:

Hydrologic Reclamation Plan

This proposed PMLU change amendment does not affect the hydrology of the permit or adjacent areas. There are no changes proposed for any of the Hydrology sections of the MRP.

A small wash passes through the staked outline of the XTO drill pad. The wash drains an area of roughly 1 acre upgradient of the pad. Depending on the location and configuration of the pad when it is actually built, this wash may need to be diverted, but hydrologic impacts to the environment and the Permittee's reclamation work should be negligible to non-existent.

Findings:

The Permittee has met the requirements for Reclamation Hydrologic Information.

CUMULATIVE HYDROLOGIC IMPACT ASSESSMENT

Regulatory Reference: 30 CFR Sec. 784.14; R645-301-730.

Analysis:

This action does not require revision or update of the East Mountain CHIA.

Findings:

This action does not require revision or update of the East Mountain CHIA.

RECOMMENDATIONS:

The Division should not approve the Alternate Post-mining Land Use amendment for the Des Bee Dove Mines MRP until the Permittee has provided adequate responses to the deficiencies described above.